

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION
 : :
 : Plaintiffs
 : :
 : v.
 : :
GOVERNOR MARK SCHWEIKER, et al., : :
 : :
 : Defendants : NO. 02-CV-2949

ORDER

AND NOW, this day of September 2005, it is ORDERED that Defendants' Motion to Extend Time to Respond to Motion for Evidentiary Hearing, Etc. is GRANTED. Defendants' time to respond to the Motion for Evidentiary Hearing, Temporary Restraining Order, and/or Preliminary Injunction is extended to October 11, 2005.

BY THE COURT:

TIMOTHY J. SAVAGE, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION
Plaintiffs :
v. :
GOVERNOR MARK SCHWEIKER, et al., :
Defendants : NO. 02-CV-2949

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO RESPOND TO
MOTION FOR EVIDENTIARY HEARING, ETC.**

Defendants move the Court pursuant to Fed.R.Civ.P. 6(b) to extend by an additional fourteen days their time to respond to the Motion for Evidentiary Hearing, Temporary Restraining Order, and/or Preliminary Injunction filed by Plaintiffs Wheeler and Fontroy on September 8, 2005, and state in support of this motion:

1. The Motion was served by mail sent September 7, 2005 and received September 8, 2005.
2. The Motion seeks to enjoin application of a recent amendment to the Department of Corrections policy on inmate mail, DC-ADM 803, that requires precautions with a certain kind of incoming mail.
3. Due to the demands of other work, Defendants' counsel has not had the time to prepare a full response to the Motion, in light of the seriousness of the problem that the amendment addresses and the cases throughout the nation that have considered the problem. *See, e.g., United States v. Martin*, 356 F.Supp.2d 621 (W.D. Va. 2005); *Ray v. Williams*, 2005 WL 697041, 1429907

(D. Oregon 2005); *United States v. Orrego*, 2004 WL 367706, 1447954 (E.D. N.Y. 2004).

4. Fed.R.Civ.P. 6(b) permits the Court to enlarge the time permitted to make a filing under court rules.

5. Counsel can file the response on or before October 11, 2005.

WHEREFORE, Defendants ask the Court to grant them until October 11, 2005 to file a response to the Motion for Evidentiary Hearing, Temporary Restraining Order, and/or Preliminary Injunction.

THOMAS W. CORBETT, JR.
Attorney General of Pennsylvania

By: s/ John O. J. Shellenberger

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John O. J. Shellenberger
Chief Deputy Attorney General
Attorney I.D. No. 09714
Attorney for Defendants

CERTIFICATE OF SERVICE

I, John O. J. Shellenberger, hereby certify that DEFENDANTS' MOTION FOR EXTENSION OF TIME TO RESPOND TO MOTION FOR EVIDENTIARY HEARING, ETC. has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of DEFENDANTS' MOTION FOR EXTENSION OF TIME TO RESPOND TO MOTION FOR EVIDENTIARY HEARING, ETC. was mailed on September 26, 2005, by first class mail, postage prepaid to:

Derrick Dale Fontroy, AY-7513
Theodore B. Savage, CB-2674
Aaron Christopher Wheeler, BZ-2590
James S. Pavlichko, DK-0199
State Correctional Institution at Graterford
P.O. Box 244
Graterford, PA 19426-0244

s/ John O. J. Shellenberger

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